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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,278	10/23/2003	Hawley K. Rising III	080398.P326C	4137

7590 12/06/2004

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EXAMINER

MOFIZ, APUM

ART UNIT PAPER NUMBER

2165

DATE MAILED: 12/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/693,278

Applicant(s)

RISING ET AL.

Examiner

Apu M Mofiz

Art Unit

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>04/16/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claim 1 is rejected under the judicially created doctrine of obviousness-type

double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,675,158.

Although the conflicting claims are not identical, they are not patentably distinct from each other because claims of U.S. Patent No. 6,675,158 contain every element of claim 1 of the instant specification.

"A later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or anticipated by, the earlier claim. *In re Longi*, 759 F.2d at 896, 225 USPQ at 651."

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kline (U.S. Patent No. 5,468,085 and Kline hereinafter) in view of Robert Sedgewick (Algorithms in C++; Addison-Wesley Publishing Co., Copyright 1992, pages 13-17. and Sedgewick hereinafter).

As to claim 1, Kline teaches a method for organizing data pertaining to audiovisual content (i.e. document e.g., document pertaining to audiovisual content; Kline teaches organizing documents using table of contents and indexes) (col 1, lines 1-20; col 2, lines 15-51), the method comprising: defining at least one descriptive list (i.e. Table of contents) (col 2, lines 15-51) for a descriptive portion of the data pertaining to audiovisual content (col 1, lines 1-20); defining at least one accessing list (i.e. a set of index dividers) (col 2, lines 15-51) for an accessing portion of the data pertaining to audiovisual content (col 1, lines 1-20);

Kline does not teach generating a matrix to organize data with two lists of information (i.e., Kline does not use matrix as a tool to organize two sets of data. Kline organizes the documents with the TOC and index information intuitively).

Sedgewick teaches generating a matrix to organize data with two lists of information (i.e., "In this chapter, we discuss basic ways of organizing for processing by computer programs." ... "Perhaps the most fundamental data structure is the array, which is defined as a primitive in C++ and most other programming languages. An array is a fixed number of data items that are stored contiguously and that are accessible by an index." ... "Similarly two-dimensional arrays correspond to matrices." The preceding text excerpts clearly indicates that an array is a primitive data structure to organize data using a computer programming language. Matrices are a primitive way to organize two sets or dimensions or vectors of data.) (page 15; page 17)

It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to modify the teachings of Kline with the teachings of Sedgewick to include generating a matrix to organize data with two lists of information with the motivation to organize data for processing by computer programs (page 15, paragraph 1) and matrix is a fundamental way of storing two sets of fixed sets of data items (Sedgewick, page 15, paragraph 2; page 17, paragraph 4).

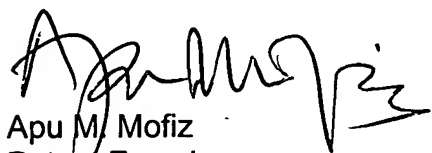
### ***Points of Contact***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Apu M. Mofiz whose telephone number is (571) 272-4080. The examiner can normally be reached on Monday – Thursday 8:00 A.M. to 4:30 P.M.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached at (571) 272-4083. The fax numbers for the group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9600.

A handwritten signature in black ink, appearing to read 'Apu M. Mofiz', with a stylized flourish at the end.

Apu M. Mofiz  
Patent Examiner  
Technology Center 2100

December 30, 2004